

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

WILLIAM MESHEL, M.D.
Plaintiff

VS.

EAST EL PASO MEDICAL
SURGICAL CENTER D/B/A
EAST EL PASO PHYSICIANS'
MEDICAL CENTER, LLC,

SOUTHWEST MEDICAL
ASSOCIATES, INC.

Defendants.

NOTICE OF REMOVAL

NOW COMES Defendant Southwest Medical Associates, Inc., and files this Notice of Removal and respectfully shows that:

1. This removal is pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1441(a), based on the Court's federal question jurisdiction. Plaintiff alleges that he was discriminated and retaliated against by Defendant based upon his age in violation of the Age Discrimination in Employment Act (29 U.S.C. §621, *et seq*), and based on disability in violation of the Americans with Disabilities Act (42 U.S.C. §12101 *et seq*), as well as asserting the same claims under state law pursuant to Texas Labor Code Ch. 21. See Plaintiff's First Amended Petition, p. 6 - 8.
 2. This action was originally filed in the 327th Judicial District Court of El Paso County, Texas in Cause No. 2018DCV3246.¹ Plaintiff is William Meshel, M.D. Defendants are

¹ Plaintiff previously filed an Original Complaint against East EL Paso Physician's Medical Center, which did not assert federal claims and which was not served on Defendant Southwest Medical Associates.

Southwest Medical Associates and East El Paso Medical Surgical Center D/B/A/ East El Paso Physicians' Medical Center, LLC. Venue is proper in the United States District Court for the Western District of Texas, El Paso Division.

3. Plaintiff's allegations regarding discrimination and retaliation based on age and disability raises a federal question under the Age Discrimination in Employment Act ("ADEA") (29 U.S.C. §621, *et seq*), and the Americans with Disabilities Act ("ADA") (42 U.S.C. §12101 *et seq*). Additionally, the Court has supplemental jurisdiction over Plaintiff's state law claims, which are based on the same set of facts as the federal claims. Thus removal is proper under 28 U.S.C. § 1441.

4. Plaintiff's age and disability discrimination allegations under the ADEA and the ADA were first asserted in Plaintiffs' First Amended Petition. The First Amended Petition and Summons was mailed by certified mail on June 17, 2019 and received by Southwest Medical Associates on June 24, 2019. Defendant has thirty (30) days in which to remove. Therefore, this removal is timely.

5. A true and correct copy of all process and pleadings served upon Defendant in the state court action is being filed with this notice as required by 28 U.S.C. § 1446(a). Also attached is a Supplement to JS 44 Civil Cover Sheet.

ACCORDINGLY, Defendant prays that this cause be removed to the United States District Court for the Western District of Texas, El Paso Division, pursuant to §1441 of Title 28 of the United States Code.

Respectfully submitted,

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By: /s/ A. Craig Carter
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ATTORNEY FOR DEFENDANT
SOUTHWEST MEDICAL ASSOCIATES, INC.

CONSENT TO REMOVAL

Defendant East El Paso Medical Surgical Center D/B/A/ East El Paso Physicians' Medical Center, LLC hereby consents to removal of this case to federal court.

By: /s/ Amanda Williams
Amanda Williams
Jackson Lewis, P.C.
State Bar No. 24065281

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was delivered to the following counsel of record as reflected below on July 3, 2019.

Via Facsimile (915)207-1932

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By: /s/ A. Craig Carter
A. Craig Carter